

1-1 By: Eiland, et al. (Senate Sponsor - Duncan) H.B. No. 2383  
1-2 (In the Senate - Received from the House May 6, 2013;  
1-3 May 7, 2013, read first time and referred to Committee on Health  
1-4 and Human Services; May 17, 2013, reported adversely, with  
1-5 favorable Committee Substitute by the following vote: Yeas 8, Nays  
1-6 1; May 17, 2013, sent to printer.)

1-7 COMMITTEE VOTE

1-8		Yea	Nay	Absent	PNV
1-9	Nelson	X			
1-10	Deuell	X			
1-11	Huffman	X			
1-12	Nichols	X			
1-13	Schwertner	X			
1-14	Taylor		X		
1-15	Uresti	X			
1-16	West	X			
1-17	Zaffirini	X			

1-18 COMMITTEE SUBSTITUTE FOR H.B. No. 2383 By: Schwertner

1-19 A BILL TO BE ENTITLED  
1-20 AN ACT

1-21 relating to life settlement contracts for the payment of long-term  
1-22 care services and support and the consideration of a life insurance  
1-23 policy in determining eligibility for medical assistance.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. Subchapter B, Chapter 32, Human Resources Code,  
1-26 is amended by adding Section 32.02613 to read as follows:

1-27 Sec. 32.02613. LIFE INSURANCE ASSETS; LIFE INSURANCE POLICY  
1-28 CONVERSION. (a) For purposes of this section, "long-term care  
1-29 services and support" includes home health care, assisted living,  
1-30 and nursing home services.

1-31 (b) The owner of a life insurance policy with a face amount  
1-32 of more than \$10,000 may enter into a life settlement contract under  
1-33 Chapter 1111A, Insurance Code, for the benefit of a recipient of  
1-34 long-term care services and support in exchange for direct payments  
1-35 to:

1-36 (1) a health care provider for the provision of those  
1-37 services to that recipient; or

1-38 (2) the state to offset the costs of providing those  
1-39 services to that recipient under the medical assistance program.

1-40 (c) The proceeds of a life settlement contract entered into  
1-41 under this section must be used for the payment of long-term care  
1-42 services and support, except for the amount specified in Subsection  
1-43 (d)(1). To the extent feasible and allowed under federal law, the  
1-44 medical assistance program may act only as the secondary payor for  
1-45 long-term care services and support provided to a person who is  
1-46 eligible for medical assistance and for whose benefit an owner of a  
1-47 life insurance policy has entered into a life settlement contract  
1-48 under this section.

1-49 (d) In addition to the requirements under Chapter 1111A,  
1-50 Insurance Code, a life settlement contract entered into under this  
1-51 section must:

1-52 (1) provide that the lesser of five percent of the face  
1-53 amount of the life insurance policy or \$5,000 is reserved and is  
1-54 payable to the owner's estate or a named beneficiary for funeral  
1-55 expenses;

1-56 (2) provide that the balance of proceeds under the  
1-57 life settlement contract that are unpaid on the death of the owner  
1-58 must be paid to the owner's estate or a named beneficiary; and

1-59 (3) specify the total amount payable for the benefit  
1-60 of the recipient of long-term care services and support under the

2-1 life settlement contract.

2-2 (e) All proceeds of a life settlement contract entered into  
 2-3 under this section must be held in an irrevocable state or federally  
 2-4 insured account for the benefit of the recipient of long-term care  
 2-5 services and support or for payment as otherwise required by this  
 2-6 section.

2-7 (f) Only a recipient of long-term care services and support  
 2-8 for whose benefit an owner enters into a life settlement contract  
 2-9 under this section may choose the provider and type of services  
 2-10 provided to the recipient and paid for out of an account described  
 2-11 by Subsection (e). Any attempt by a person to require the recipient  
 2-12 to choose a specific provider is strictly prohibited and  
 2-13 constitutes an unfair method of competition or an unfair or  
 2-14 deceptive act or practice under the Insurance Code.

2-15 (g) A person who enters into a life settlement contract with  
 2-16 an owner of a life insurance policy under this section must  
 2-17 maintain:

2-18 (1) a surety bond executed and issued by an insurer  
 2-19 authorized to issue surety bonds in this state;

2-20 (2) a policy of errors and omissions insurance; or

2-21 (3) a deposit in the amount of \$500,000 in any  
 2-22 combination of cash, certificates of deposit, or securities.

2-23 (h) In accordance with the requirements of Chapter 1111A,  
 2-24 Insurance Code, a life settlement contract provider who enters into  
 2-25 life settlement contracts with owners of life insurance policies  
 2-26 under this section must file with the Texas Department of  
 2-27 Insurance:

2-28 (1) all life settlement contract forms used by the  
 2-29 provider; and

2-30 (2) all advertising and marketing materials used by  
 2-31 the provider.

2-32 (i) Section 1111A.022(a)(2)(A), Insurance Code, does not  
 2-33 apply to a life insurance policy that is the subject of a life  
 2-34 settlement contract entered into under this section if the contract  
 2-35 has been in force at least five years.

2-36 (j) A claim against a life settlement contract provider with  
 2-37 whom an owner of a life insurance policy enters into a life  
 2-38 settlement contract under this section by the owner, the owner's  
 2-39 estate, a named beneficiary, or any other person with respect to the  
 2-40 contract may not exceed the face amount of the policy, less the  
 2-41 proceeds paid under the contract, plus the total amount of premiums  
 2-42 paid by the owner since entering into the contract. A life  
 2-43 settlement contract provider must pay a claim under this subsection  
 2-44 from the funds in an account described by Subsection (e).

2-45 (k) In accordance with Chapter 1111A, Insurance Code, the  
 2-46 Texas Department of Insurance may conduct periodic market  
 2-47 examinations of each life settlement contract provider who enters  
 2-48 into a life settlement contract with an owner of a life insurance  
 2-49 policy under this section.

2-50 (l) The department shall educate applicants for long-term  
 2-51 care services and support under the medical assistance program  
 2-52 about options for life insurance policies, including options that  
 2-53 do not allow a life insurance policy to be considered as an asset or  
 2-54 resource in determining eligibility for medical assistance.

2-55 (m) The executive commissioner of the Health and Human  
 2-56 Services Commission, in consultation with the commissioner of  
 2-57 insurance, shall adopt rules necessary to implement this section.  
 2-58 The rules must ensure that:

2-59 (1) proceeds from a life settlement contract are used  
 2-60 to reimburse a provider of long-term care services and support or  
 2-61 the state to offset the cost of medical assistance long-term care  
 2-62 services and support;

2-63 (2) eligibility and need for medical assistance are  
 2-64 determined without considering the balance of proceeds from a life  
 2-65 settlement contract as provided in this section; and

2-66 (3) payments to a provider of long-term care services  
 2-67 and support and applied income payments are made in accordance with  
 2-68 this chapter.

2-69 (n) The entry into a life settlement contract by an owner of

a life insurance policy under this section is not the only method by which the owner may avoid having the policy considered as an asset or resource in determining the eligibility of the owner for medical assistance.

(o) Notwithstanding the provisions of this section, the department may not implement a provision of this section if the commission determines that implementation of the provision is not cost-effective or feasible.

SECTION 2. Subject to Section 32.02613(o), Human Resources Code, as added by this Act, the executive commissioner of the Health and Human Services Commission shall adopt rules necessary to implement Section 32.02613, Human Resources Code, as added by this Act, not later than January 1, 2014.

SECTION 3. The change in law made by this Act applies only to a determination of eligibility of a person for medical assistance benefits made on or after January 1, 2014, subject to Section 32.02613(o), Human Resources Code, as added by this Act. A determination of eligibility made before January 1, 2014, is governed by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

SECTION 4. If before implementing any provision of this Act a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the agency affected by the provision shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

SECTION 5. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.

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